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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

Communicating, in compliance with a resolution of the Senate, copies of correspondence in relation to the destruction of the steamboat Caroline.

JANUARY 23, 1843.

Referred to the Committee on Foreign Relations, and ordered to be printed.

To the Senate of the United States:

I transmit to the Senate, herewith, in answer to their resolution of the 5th instant, a report from the Secretary of State, with accompanying documents.

JOHN TYLER.

WASHINGTON, *January* 23, 1843.

DEPARTMENT OF STATE,
Washington, January 7, 1843.

The Secretary of State, to whom has been referred the resolution of the Senate of the 5th instant, requesting the President to communicate to that body, "if not in his opinion inconsistent with the public interests, copies of any correspondence between the Government of Great Britain and the minister of the United States at London, on the subject of the destruction of the steamboat 'Caroline,' which may not have been heretofore publicly communicated to either House of Congress," has the honor respectfully to submit to the President copies of the papers referred to.

DANIEL WEBSTER.

To the PRESIDENT *of the United States.*

List of papers sent.

Lord Palmerston to Mr. Stevenson, dated - -	August 27, 1841.
Mr. Stevenson to Lord Palmerston, dated - -	August 31, 1841.
Lord Palmerston to Mr. Stevenson, dated - -	Sept'r 2, 1841.
Mr. Stevenson to Lord Palmerston, dated - -	Sept'r 2, 1841.

Thomas Allen, print.

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THE CASE OF THE CAROLINE.

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *August* 27, 1841.

The undersigned, her majesty's principal secretary of state for foreign affairs, in proceeding to reply to the note which Mr. Stevenson, envoy extraordinary and minister plenipotentiary from the United States of America at this court, addressed to him on the 22d of May, 1838, upon the subject of the capture and destruction of the steamboat "Caroline," by a detachment of her majesty's forces, on the river Niagara, on the night of the 29th December, 1837, thinks it necessary in the first place to explain the reasons why this reply has not been made sooner.

Mr. Stevenson's note, which had been preceded by a correspondence on this subject between Mr. Fox and Mr. Forsyth, in January, 1838, was accompanied by voluminous documents, purporting to contain statements of facts collected by the law officers of the United States Government from a variety of witnesses whom they had examined for this purpose; and it was absolutely necessary that, before her majesty's Government could give a full answer to Mr. Stevenson's note, copies of those documents should be sent to the Governor General of Canada, in order that he might direct witnesses on the British side to be examined; and that he might transmit to her majesty's Government correct accounts of those transactions, to which the statements of the American witnesses related.

The proceedings connected with these inquiries necessarily occupied a considerable portion of time, and it was not till the spring of the year 1839, that full information was received.

Other border conflicts also happened, which appeared to her majesty's Government to diminish the relative importance of the affair of the Caroline; and it seemed to her majesty's Government that the Government of the United States could not but feel that the result of all these events must be, that there was a large account to be settled between the two Governments, which must be adjusted entirely, or not at all; and that it was useless to discuss separate and particular incidents, as if they were the only points to be arranged between the two countries. Moreover, the Government of the United States was perfectly aware, even before Mr. Stevenson's note of May, 1838, was written, that her majesty's Government considered the destruction of the Caroline as a justifiable act of self-defence, properly done by the local British authorities, for the protection of British subjects and their property, and for the security of her majesty's territories.

This opinion had been made known to the United States Government by Mr. Fox, in an official note to Mr. Forsyth, and by the undersigned in more than one conversation with Mr. Stevenson. Moreover, Mr. Stevenson, in his note of May, 1838, did not represent the transaction as being the unauthorized enterprise of private individuals, acting upon their own responsibility, and which it was doubtful whether her majesty's Government would, or would not, consider as being a matter for which the British Government and nation were answerable. But Mr. Stevenson, on the contrary, represented the transaction as one which had been deliberately planned, with the knowledge and approbation of the Lieutenant Governor of Upper Canada, and executed by armed troops, forming a portion of the British force, stationed at Chippewa; and Mr. Stevenson called upon her majesty's Government to disavow, and disapprove the conduct of the Lieutenant Governor in

this respect. But her majesty's Government did not, after the receipt of Mr. Stevenson's note, retract the opinions expressed on this matter by Mr. Fox, and by the undersigned; nor did her majesty's Government in any manner disavow, or disapprove the conduct of the Lieutenant Governor of Canada, and, therefore, both that which her majesty's Government had done, and that which her majesty's Government abstained from doing, *could leave no doubt whatever on the mind of the President*, that the British Government *intended to decline* to comply with the demand contained in Mr. Stevenson's note.

It is to be presumed that it was a conviction to this effect, which induced Mr. Stevenson to refrain from pressing for an answer to his note, without special instructions from his Government to do so, and which also led Mr. Forsyth to instruct Mr. Stevenson to abstain till further orders, from taking any step in the matter.

The Government of the United States seems, like that of her majesty, to have felt that no good could arise from the communication of a *formal refusal* on the part of Great Britain to comply with a demand *explicitly made* by the United States, and that it might be better to let that refusal be inferred from the silence of the British Government.

But as recent communications received from the United States Government show that a formal reply to Mr. Stevenson's note of the 28th of May, 1838, is desired by the President, the undersigned feels that he is bound to give it, and he has, therefore, now again to declare that, in the opinion of her majesty's Government, the capture and destruction of the Caroline was a justifiable act of self-defence; and that her majesty's Government *far from* disavowing and disapproving the then Lieutenant Governor of Canada who sanctioned, or the officers and men of her majesty's forces who planned and executed, this transaction, on the contrary, *fully avow and entirely approve* the conduct, in this respect, of *all* those persons; that *no redress is due* by her majesty's Government on this account, and that, therefore, none can be given.

The grounds upon which this opinion rests will be found in the following summary of the leading facts of the case; and her majesty's Government can not but indulge a hope that the Government of the United States will see in this statement, and in the proofs by which it is supported, sufficient reason for the decision of her majesty's Government.

If a wrong had really been done by her majesty's colonial authorities, her majesty's Government could most readily have given reparation; but if, on the other hand, it can be shown that no wrong has been done, and that the transaction in question was in truth a defensive measure on the part of the British authorities in North America, the Government of the United States is too just to press for a reparation which is not due.

In December, 1837, no civil war existed in Canada; there was no party within the British provinces arrayed in arms against the Queen's authority; disturbances had indeed broken out in Lower Canada in the autumn of the year 1837, but those disturbances had been promptly quelled by the energetic loyalty of her majesty's Canadian subjects, and by the action of her majesty's regular troops. Those disturbances had ended, after a short conflict, and with little loss of life on either side. The leaders of the insurrection had fled to the United States, and, for some time before December, 1837, order and tranquillity had been restored in the Canadian provinces.

In this state of things, a small band of Canadian refugees who had taken shelter in the State of New York, formed a league with a number of the citizens of the United States, for the purpose of invading the British territory, not to join a party engaged in civil war, because civil war at that time in Canada there was none, but in order to commit within the British territory the crimes of robbery, arson, and murder. Her majesty's Government and her majesty's minister at Washington have called these people pirates; and the American Secretary of State, in a recent note to Mr. Fox, observes that this name can not properly be applied to them.

The undersigned is ready to admit, that technically, the word "pirate" is applied to persons who, without authority or commission, commit upon the high seas the crimes which this band of offenders determined to commit upon the land. But if the term is in this case inappropriate, it is so, not on account of the nature of the acts which these men were about to perpetrate, but on account of the element in which these acts were to be committed.

The intentions of these men were publicly known, but the government of New York took no effectual steps to prevent them from carrying those intentions into effect. By a neglect on the part of that government, which seems to admit of but one explanation, the storehouses which contained the arms and ammunition of the State were left unguarded, and were consequently broken open by this gang, who carried off thence in open day, and in the most public manner, cannon, and other implements of war.

After some days' preparation, these people proceeded without any interruption from the Government or authorities of the State of New York, and under the command of an American citizen, to invade and occupy Navy island, and part of the British territory; and having engaged the steamboat Caroline, which for their special service was cut out of the ice in which she had been enclosed in the port of Buffalo, they used her for the purpose of bringing over to Navy island from the United States territory, men, arms, ammunition, stores, and provisions.

The preparations made for this invasion of British territory by a band of men organized, armed and equipped within the United States, and consisting partly of British subjects, and partly of American citizens, had induced the British authorities to station a military force at Chippewa, to repel the threatened invasion, and to defend her majesty's territory.

The commanders of that force, seeing that the Caroline was used as a means of *supply and reinforcement for the invaders*, who had occupied Navy island, judged that the capture and destruction of that vessel would prevent supplies and reinforcements from passing over to the island, and would, moreover, deprive the force in the island of the means of passing over to the British territory on the main land; they, therefore, determined at once to capture the Caroline, both for the purpose of impeding the further progress of the invaders and to hasten their retreat from Navy island. The British commanders, having taken this determination, lost no time in carrying it into execution, because every hour's delay would have defeated their purpose. But, in order to avoid as much as possible loss of life and effusion of blood on either side in accomplishing their object, they chose to capture the vessel by a surprise in the night, when the marauders, being assailed unawares and in the dark, by persons acting upon a concerted plan, would be less able to resist, and would be more easily overcome than if attacked by daylight and necessarily warned for defence by seeing the gradual approach of the British boats. Accordingly, seven British boats, with an officer and eight men in

each, all of them volunteers from the British force stationed at Chippewa, started on the night of the 29th of December, 1837, from Chippewa to cut out the "Caroline," which they expected to find at Navy island, but which they discovered lower down the river, moored at the wharf at Fort Schlosser. After being challenged by the watch on deck, they boarded the vessel, and after a short, but smart resistance, during which some of the boarding party were severely wounded, they carried the vessel, drove on shore the crew and the other persons who were on board, cast her off from her mooring, and proceeded to tow her away, intending to carry her over to the British shore; but they found her too heavy to be towed up against the stream, and, therefore, after carefully seeing that there was nobody left on board, they set her on fire, and let her drift down to the falls.

Having thus accomplished their object, they returned quietly to Chippewa, without any retaliatory attack upon that portion of the hostile band who were collected at Fort Schlosser, and who intended, no doubt, to pass over the next day in the Caroline to Navy island.

In executing this operation, the British party used no greater degree of violence than was necessary to carry the vessel. They took with them no fire-arms, and had nothing but cutlasses and some swords, borrowed for the occasion from the cavalry stationed at Chippewa.

Such of the persons found on board of the Caroline as did not resist were put on shore uninjured, and as the vessel was close to the wharf, the greater part of the persons landed without difficulty. It appears that a few were wounded; and her majesty's Government very much regrets that one American citizen, named Durfee, lost his life by a shot through the head. But, as it is positively declared by the British party that they took no firearms with them, and as it is proved that the American party had firearms and used them, it seems possible to account for the death of Durfee, without assuming that he fell by the hands of the British party.

The details of which the foregoing statement is a summary, are given in enclosures to this note, and the undersigned requests that Mr. Stevenson will have the goodness to draw the special attention of his Government to the particulars contained in those enclosures; for an attentive perusal of those enclosures will show how erroneous are many of the statements which have been transmitted to Mr. Stevenson, and of which he gave a summary in his note of *December*, 1838 [presumed *May* intended]. But some other parts of that summary are perfectly consistent with the British statement, and tend to confirm, instead of contradicting it.

Mr. Stevenson begins his narrative by stating that, toward the end of December, 1837, the Caroline was cleared from the port of Buffalo, with a view of running between that port and Schlosser, and for the purpose of carrying passengers and freight. But Mr. Stevenson omits to state that the Caroline was "cleared" not only from the customhouse, but from the ice, in which she had been locked up for the winter; and he has omitted to explain whence and how arose that sudden outburst of traffic on the river between Buffalo and Schlosser, which, in the depth of a North American winter, could render it a profitable undertaking to set on the Caroline as a passage vessel between those two points, between which there is an established railway communication.

Mr. Stevenson commences his narrative by stating that he is about to give a recital of the "*prominent* and *important* facts" of the case, and yet he omits all mention of the most prominent and most important fact of the

whole transaction; of that fact which indeed is the very foundation of the whole proceeding and in which lies the essence of the whole matter, namely, the then recent invasion of the British territory at Navy island by a band of British refugees and of American citizens, commanded by a citizen of the Union, organized and equipped under the eyes and (there is too much reason to suspect) with the connivance of the authorities of New York, and provided with cannon and other arms, and warlike stores, which were the public property of that State, and were taken openly and without impediment from the storehouses of the State.

Mr. Stevenson, however, is obliged to admit that the very first thing that was done by this steam-vessel, which had cleared out to carry passengers and freight between Buffalo and Fort Schlosser, was to land passengers and freight, not at Fort Schlosser at all, but at Navy island, then occupied by the hostile force which had invaded it from the United States.

Mr. Stevenson says that the Caroline then went on to Fort Schlosser, but he does not assert that she landed at that place any passengers or freight from Buffalo; but he admits that this steamboat, whose professed employment was to run between Buffalo and Schlosser, having first disembarked her passengers and freight from Buffalo, not at Schlosser, but at Navy island, and having arrived subsequently at Schlosser, returned, not to Buffalo, but to Navy island, and then not once, but twice in the very day on which she arrived at Schlosser, and went from Schlosser to Navy island and back from Navy island to Schlosser. And thus it appears, even from Mr. Stevenson's own statement, that the real purpose for which the Caroline was employed was, not to run with passengers and freight from Buffalo to Schlosser, and from Schlosser to Buffalo, but to convey passengers and freight from Buffalo and from Schlosser to Navy island, a place not within the United States territory, but a British island; to which, in ordinary times, no man would have thought of carrying either passengers or freight, because it has scarcely any inhabitants, and has neither accommodation for travellers nor demand for mercantile commodities; and is, in fact, in consequence of the strength of the current at that point, so difficult of access for rowing boats, that, on that account, the invaders found a steam-vessel necessary as a sure and safe means of communication with the shore.

What, then, was the reason why, in the depth of winter, the "Caroline" carried, in one single day, three cargoes of passengers and freight to this usually almost uninhabited island? Why, the answer is plan: these pretended passengers were reinforcements for the band of invaders who had seized possession of that portion of British territory; and the freight consisted of arms and warlike stores.

This fact is perfectly notorious, and has been admitted by Mr. Appleby, the master, who, in his recent examination in the case of Mr. McLeod, confessed that part of this pretended freight was nothing more or less than a six-pounder.

It is clear, therefore, from Mr. Stevenson's own statement, that the Caroline was not engaged in the innocent occupation of commerce, but was employed to assist the hostile proceedings of the band who had invaded the British territory; that she had, three times in one day, made landings on British territory for hostile purposes; that her character was identified with that of the band on Navy island; and that the British authorities were fully justified in treating her as an enemy's vessel, and in capturing or destroying her as such.

Mr. Stevenson then goes on to say, that the Caroline was moored, for the night, to the wharf at Fort Schlosser; and that on board of her there were her own officers and crew, amounting to *ten* in number, and *twenty-three* other individuals, *all citizens of the United States*, who were unable to procure lodgings at the inn. That inn, indeed, as is well known, was entirely filled that night with other citizens of the United States, who had, no doubt, repaired thither for the same purpose for which the abovementioned twenty-three had come. And Mr. Stevenson says that all the thirty-three persons on board the Caroline retired to rest, except the night-watch.

Now, upon this, the undersigned would beg to remark, in passing, that, considering that the Caroline was a small steamer, and pretended to be destined merely as a passage vessel in the river between Buffalo and Schlosser, it seems strange that she should have been encumbered with so large a number of officers and men; and the fact, that the master deemed it necessary to set a night-watch, seems to indicate a consciousness on his part that he was engaged in an undertaking which might probably expose him to the very danger which actually came upon him.

Mr. Stevenson then states that, about midnight, the Caroline was boarded by people from four or five boats, who, armed with pistols, swords, and cutlasses, began an indiscriminate attack upon the unarmed crew and inmates of the vessel, under the cry of "Give no quarters;" that the steamer was yielded without resistance, and was then set on fire and sent down the falls.

Now, upon this, the undersigned would beg leave to remark, that it is stated by the British witnesses that the parties in the boat took no firearms with them; and there was, evidently, a good reason for this; because, in the darkness of the night, they could not have used firearms without danger to each other; for, although each might be able to distinguish friend from foe, as far as his sword could reach, he could not possibly tell who might find himself in the way of the range of a pistol or musket bullet; and, as the parties from the different boats were to board the "Caroline" at different parts, and in opposite directions, they would, by using firearms, have been as likely to shoot one another as to shoot any of the enemy's party. The strong probability, therefore, is, that the British statement upon this head is the true one; and, as it is proved that the American party had firearms, it may not unnaturally be supposed that, in the confusion of their surprise, and in the darkness of the night, they may have mistaken the report of the firearms discharged by their own party, for a report of firearms discharged by the boarders.

In a similar way, it may be possible to account for the assertion, wholly untrue, that the boarding party cried out to each other to give no quarter; for it appears that one of the party desired another to put on shore, unharmed, one of the people found in the "Caroline"—saying, that they wanted the vessel, but did not want to make *any prisoners;* and, in the hurry and alarm of the surprise, the people on board the "Caroline" might have construed that declaration into an intention to give no quarter.

If, indeed, the boarding party had meant to put the people in the Caroline to death; and, if it were true, as stated to Mr. Stevenson, and recited in his note, that a party of men from four or five boats, who could not, therefore, well have been less than forty in number, and who are said to have been armed with swords and pistols, boarded, by surprise, a vessel containing thirty-three men, wholly unarmed, mostly asleep at the time, and all of them unassisting, is it possible that, if the intention of such a boarding party

had been to give no quarters, a great portion of the people in the Caroline must have perished that night? And, yet, the only one among the number who lost his life, was Durfee, who probably fell by a shot from his own friends.

These facts, which are now clearly ascertained, completely vindicate the boarding party from the charge of unnecessary violence in performing the public service, on which they were employed.

Mr. Stevenson then proceeds to say, that there was no fortification of any kind at Schlosser; that hostilities were not commenced on the American side; and that no shot from cannon, or from other firearms, had been discharged from the American shore on the morning of the 29th of December, as pretended by one of the British officers.

As to the last point, the undersigned requests the particular attention of the United States Government to the statements made regarding it by the British witnesses; and, on the correctness of which, her majesty's Government must be permitted to reply: That there was no fortification at Schlosser, her majesty's Government are ready to admit; for, although the place is called "Fort Schlosser," her majesty's Government believe that no fortified building at present exists there. It is also perfectly true, that no hostilities had been commenced on the American side (if, by that expression, Mr. Stevenson means the American side of the river); but that hostilities had been commenced by the Americans, is now an historical fact; and those hostilities consisted in an invasion of British territory, by an armed force from the State of New York. In fact, the people of New York had begun to make war against her majesty's Canadian provinces. They had done so, apparently, with the connivance of the authorities of the State. Not only the New York territory at Schlosser had lost its neutral character, and had become enemy's land, but other portions of the territory of that State had assumed the same condition. One or other of two things must be—either the government of New York, knowingly and intentionally, permitted the band of invaders to organize and equip themselves within the State, and to arm themselves for war, against British territory, out of the military stores of the State, or else the State government had lost its authority over the border district; and those districts were, for the moment, in open defiance of the power of the State government, as well as at war with the opposite British province.

In the first case, the British authorities in Canada had a right to retaliate war for war. In the second case, they were no longer bound to respect as neutral that portion of a territory which, by shaking off its obedience to a neutral Government, had ceased to be neutral, and could certainly not be entitled to the privilege of protecting persons who were actively engaged in making war upon her majesty's territory.

And this is an answer to the objection, if it should be made by the United States Government, that, even admitting that the Caroline was employed in the service of the invaders of Navy island, which it is presumed will no longer be denied, the British authorities in Canada might have dealt with her as an enemy if they had found her within the British limits, but had no right to pursue and capture her within the limits of the United States.

The answer to that objection is, that although Schlosser is unquestionably within the limits of the United States, it had ceased at that time to preserve that neutral and peaceful character which every part of the United

States was bound to maintain, even if civil war had been raging in Canada; but which was, if possible, still more incumbent upon every portion of the Union at a time when peace prevailed, not only between the United States and Great Britain, but within the Canadian provinces themselves.

These, then, are the grounds upon which her majesty's Government conceive that the Government of the United States has no just right to demand reparation for the capture and destruction of the Caroline; and these are the grounds upon which it is impossible for her majesty's Government to consent that any such reparation shall be made.

The undersigned requests Mr. Stevenson to accept the assurances of his high consideration.

PALMERSTON.

Mr. Stevenson to Lord Palmerston.

32 Upper Grosvenor Street,
August 31, 1841.

My Lord: I had the honor to receive yesterday the official communication which your lordship did me the honor to address to me, under date of the 27th instant, in reply to my note of the 22d of May, 1838, relative to the capture and destruction of the steamboat "Caroline," in the month of December, 1837, by a party of her majesty's Canadian subjects, within the limits and territorial jurisdiction of the United States.

As the representations contained in your lordship's note, touching this proceeding, differ so essentially in point of fact from those which were made to the Government of the United States, and which I had the honor of communicating to her majesty's Government in my first note, and may consequently lead to a more thorough investigation of the whole affair, in order that the material facts of the case may be more fully ascertained, and as I am on the eve of returning to the United States, and there is reason to believe that my successor may soon be expected in England, with instructions from his Government on the subject, I do not feel it necessary or proper to embark in the general discussion of the important questions embraced by your lordship's note. I shall, therefore, hasten to transmit a copy of your lordship's communication for the information of my Government, and respectfully ask that the statements and proofs to which it refers, may be furnished to me at the earliest convenient day, for the purpose of being forwarded with your lordship's note.

In the meantime, I deem it proper to submit to your lordship's consideration, some observations which have been rendered necessary by certain parts of your lordship's communication, and which demand my immediate notice.

In accounting for the delay which has taken place in communicating the answer of her majesty's Government in the case of the "Caroline," and the incidents arising out of the border difficulties, on the American and Canadian frontiers, your lordship holds the following language:

"The Government of the United States was perfectly aware, even before Mr. Stevenson's note of May, 1838, was written, that her majesty's Government considered the destruction of the 'Caroline' as a justifiable act of self-defence, properly done by the British colonial authorities, for the protection of British subjects, and their property, and for the security of

her majesty's territories. This opinion had been made known to the United States Government by Mr. Fox, in an official note to Mr. Forsyth, and by the undersigned, in more than one conversation with Mr. Stevenson."

And again, in another part of your lordship's note, it is stated: "That her majesty's Government did not, after the receipt of Mr. Stevenson's note, retract the opinions expressed in the matter by Mr. Fox, and by the undersigned, nor did her majesty's Government in any manner disavow or disapprove the conduct of the local Governor of Canada; and, therefore, both that which her majesty's Government had done, and that which her majesty's Government abstained from doing, could leave no doubt whatever on the mind of the President of the United States, that the British Government intended to decline to comply with the demand contained in Mr. Stevenson's note."

And again your lordship further observes: "It is to be presumed that it was a communication to this effect which induced Mr. Stevenson to refrain from pressing for an answer to his note, without special instructions from his Government to do so, and which also led Mr. Forsyth to instruct him to abstain, till further orders, from taking any step in the matter."

Now, if it is intended in these parts of your lordship's note to leave it to be inferred that the capture and destruction of the "Caroline" steamer was, in the opinion of her majesty's Government, a justifiable act of self-defence by the colonial authorities, or that this opinion and avowal had been officially made known by Mr. Fox to the Government of the United States, in his correspondence with the Secretary of State, prior to the arrest of McLeod, or by your lordship to me, then I take leave to say, most distinctly, that any such inference is wholly unwarranted, inasmuch as no such avowal or opinion was either communicated by Mr. Fox to my Government, or by your lordship to me. That it was not made by Mr. Fox, a brief recapitulation of the facts will show. In his first note to Mr. Forsyth, written immediately after the occurrence took place, and to which it is presumed your lordship refers, Mr. Fox confines himself to the expression of *his own opinion* as to the nature of the transaction, and not that of his *Government.* Indeed, as late as the 23d of December, 1840, in an official note to the American Government, he expressly declared that he had no authority whatever to pronounce the opinion of her majesty's Government on the case, but felt bound to second his own opinion.

Besides, how could Mr. Fox, in February, 1838, be supposed to express the opinion of his Government upon a transaction, the existence of which was then unknown to her majesty's Government, and to which neither application for redress or complaint had been made? If Mr. Fox's communication to Mr. Forsyth could have been regarded by the American Government as communicating the avowal or opinion of her majesty's Government, my instructions, and the note of 1838, would no doubt have been of a very different character. Whatever opinions, therefore, might have been entertained and expressed by Mr. Fox, from the circumstances detailed by the Canadian authorities, it is quite certain, that as late as December, 1840, he could have made no such communication to my Government, as that which may be inferred from those parts of your lordship's note.

That any answer was ever given, or communication made by your lordship to me, subsequent to my note of 1838, which presented the case as one for redress, will not, it is presumed, be pretended. On the contrary, so unasked was the delay on the part of your lordship to answer my note, and

make known the decision of her majesty's Government, that in September, 1839, I drew the special attention of my Government to the subject, and asked to be instructed whether I was to press for an answer, and, if so, the degree of urgency that I was to adopt.

In the answer I received, I was told by Mr. Forsyth that no further instructions were then required; not, however, for the reasons which your lordship is pleased to assign, but expressly on the ground "*that Mr. Forsyth had had frequent conversations with Mr. Fox on the subject, and one especially of a very recent date, from which the President was led to expect that her majesty's Government would answer my note, without any further delay.*"

I beg leave to refer your lordship to the official correspondence on this part of the subject, which was laid before Congress, and published by their order. Then, at least, the Government of the United States could have had no official information, as to the opinion of her majesty's Government, as that which your lordship's note would seem to infer. The inquiry then is, was there any communication made by your lordship prior to my note of May, 1838? Now, it is readily admitted that I had two conversations with your lordship, on the subject of the "Caroline," to which I presume the allusion in your note points. Those conversations, however, it is proper to say, were entirely of an *informal and desultory character*, and took place immediately on the arrival of the first intelligence of the Schlosser affair in England, and that through the public press. It is also admitted, that in these conversations I did understand your lordship to intimate distinctly an opinion, that the case might turn out to have been one which her majesty's Government might feel itself bound to justify as one of self-defence. No official information, however, had, at the time when these conversations took place, been received by her majesty's Government.

The substance of these conversations, it is proper also to say, were communicated by me at the time to my Government, and were also made public, and will speak for themselves.

Whether conversations of this character, as early as *February*, 1838, can rightfully be regarded as amounting to an *official* avowal or approval by her majesty's Government, of a proceeding which had not then been officially made known, or become the subject of complaint or redress, it is not necessary now to inquire into or decide. If, therefore, it was only intended by your lordship (as I flatter myself it was) to represent these conversations as the only grounds upon which the statements contained in your lordship's note have been made, nothing can be more correct than that such conversations (though of an *informal and unofficial character)* did take place, and that your lordship is justly entitled to the full benefit of this admission. All then that I mean to say is, that apart from these conversations, *no other communication ever took place between us on the subject*, until after the arrest and imprisonment of McLeod, by the authorities of the State of New York, and which, doubtless, led to the *avowal* by her majesty's Government of the original proceeding.

Upon the subject of the delay which was permitted to take place in answering my note, it is not my duty to inquire. That is a matter for your lordship and her majesty's Government.

That delay I had neither the right nor the power of controlling. It was certainly not produced by me, nor by my Government, and the responsibility must rest where it properly belongs.

I deem it unnecessary to trouble your lordship with any further observations. I have felt it due to myself, and my Government, to avail myself of the earliest moment of correcting officially any misapprehension which the statements contained in your lordship's note might be susceptible of. I accordingly seize an opportunity before your lordship's retiring from the Foreign Office, to address to you this communication.

I need not assure your lordship how sincerely I should lament that any misunderstanding should arise between us, in relation to a matter which is so capable of explanation; and that too in a moment when the public relations in which we have stood to each other are about, in all probability, to cease for ever; and which have been sustained by those of a personal character so eminently gratifying and satisfactory.

I beg your lordship to accept assurances of my high consideration.

A. STEVENSON.

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *September* 2, 1841.

The undersigned, her majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note of the 31st ultimo, from Mr. Stevenson, envoy extraordinary and minister plenipotentiary from the United States of America, in reply to the note from the undersigned, dated the 27th ultimo, upon the subject of the capture and destruction of the steamboat "Caroline."

The undersigned is glad to find that there is no essential difference between Mr. Stevenson and the undersigned, as to their impressions with regard to the facts to which Mr. Stevenson's note refers; and, for greater precision, the undersigned would beg leave to recapitulate them.

The "Caroline" was captured and destroyed on the night of the 29th of December, 1837.

On the 5th of January, 1838, Mr. Forsyth addressed a note to Mr. Fox, accompanied by numerous affidavits and documents, setting forth the American version of the capture of the "Caroline," which Mr. Forsyth stated would necessarily form the subject of a demand for redress upon her majesty's Government. Mr. Fox immediately forwarded copies of these papers to the Lieutenant Governor of Upper Canada, and reported thereupon to her majesty's Government.

On the 6th of February, following, Mr. Fox addressed a note to Mr. Forsyth, in which he transmitted the accounts which he had then received from Sir Francis Head, of the circumstances which appeared to justify the act of the Canadian authorities in the destruction of the "Caroline;" and in this note Mr. Fox wrote to Mr. Forsyth as follows:

"The piratical character of the steamboat 'Caroline,' and the necessity of self-defence, and self-preservation, under which her majesty's subjects acted in destroying that vessel, would seem to be sufficiently established.

"At the time when the event happened, the ordinary laws of the United States were not enforced within the frontier district of the State of New York. The authority of the law was overborne publicly by piratical violence. Her majesty's subjects in Upper Canada had already suffered; and they were threatened with still further injury and outrage.

"This extraordinary state of things appears naturally and necessarily to have impelled them to consult their own security, by pursuing and destroying the vessel of their piratical enemy, wherever they might find her."

Mr. Forsyth, in his answer, dated the 13th of February, observes, that the statement of facts in the papers sent by Mr. Fox, is at variance with the information communicated to the United States Government, and repeats the statement of his intention to address a complaint, supported by evidence, to her majesty's Government.

He further states: "Even admitting that the documents, transmitted with your note, contain a correct statement of the occurrence, they furnish no justification of the aggression committed upon the territory of the United States;" and he concludes by a complaint against Sir Francis Head, as having acted, on this occasion, inconsistently with the declaration which he made in his speech at the opening of the provincial parliament, in which he expressed his "confidence in the disposition of the United States Government to restrain its citizens from taking part in the conflict which was raging in the province."

To this, Mr. Fox replied in a note dated the 16th of February, that: "Although he did not acquiesce in the view which the United States Government are disposed to take of the facts connected with that transaction; yet as the legation was not the final authority competent to decide the question on the part of Great Britain, and as Mr. Forsyth informed him that a representation would, in due time, be addressed to her majesty's Government, in England, he considered it most consistent with his duty to avoid entering, at present, into any further controversy on the subject."

The account of the transaction reached England on the 2d of February, 1838. Between that time and the month of May of that year, the undersigned had some conversations with Mr. Stevenson on the subject.

The undersigned kept no memorandum of them, and therefore can not say on what days they took place, nor how many they were; but Mr. Stevenson says they were two; and the undersigned has no doubt Mr. Stevenson is correct.

If the undersigned is not mistaken in his recollection, one, at least, of these conversations was at the Foreign Office; and the undersigned has an impression that, on that occasion, he read or showed to Mr. Stevenson some of the statements which her majesty's Government had then received of the transaction from the Government of Canada. At all events, Mr. Stevenson's recollection tallies with that of the undersigned then intimated to Mr. Stevenson distinctly, the opinion of her majesty's Government, that the act would turn out to have been a justifiable measure of self-defence.

On the 22d of May of that year of 1838, Mr. Stevenson, by instructions from his Government, addressed to the undersigned, an official note, demanding reparation for the destruction of the "Caroline;" and stated that the United States Government considered that transaction "as an outrage upon United States citizens, and a violation of United States territory, committed by British troops from the province of Upper Canada; and that this outrage was planned and executed with the knowledge and approbation of the lieutenant governor of Upper Canada;" and this note was accompanied by enclosures, containing full details of the American version of the case.

On the 26th of June, the undersigned acknowledges the receipt of this note, and stated that the attention of the British Government would be given to the matter.

From that time till the early part of the present year, when the account of the arrest of Mr. McLeod reached this country, it is correctly stated in Mr. Stevenson's note, that "no other communication upon the subject of the 'Caroline,' ever took place between Mr. Stevenson and the undersigned," with the single exception, that the case of the Caroline was incidentally alluded to, but not mentioned by name, in a passage of Mr. Stevenson's note of the 26th of September, 1839, as a question pending between the two Governments.

But during this interval, nearly three years, the case of the "Caroline," was upon one occasion, the subject of communication, between Mr. Stevenson and his own Government. For, it appears, that in September, 1839, Mr. Stevenson, not having then received any reply from her majesty's Government to the demand for reparation which he had made in May, 1838, asked Mr. Forsyth whether he should press for an answer; and if so, with what degree of urgency he should do so; and it appears that Mr. Forsyth, in reply, informed Mr. Stevenson, that no further instructions on that matter were required; as, in consequence of some conversations with Mr. Fox, the President was led to expect an answer from her majesty's Government without any further delay.

No answer, however, was given by her majesty's Government; and yet, until the arrest of Mr. McLeod had happened, which took place on the 12th of November, 1840, no further notice was taken of the affair of the "Caroline," either by Mr. Stevenson, or by the United States Government, in any communication to her majesty's Government.

Now from these facts, her majesty's Government draw the following conclusions:

It seems to her majesty's Government demonstrable, that even before Mr. Stevenson's note of the 22d of May, 1838, was presented, Mr. Stevenson and the Government of Washington, were made aware of the opinion of her majesty's Government, that the destruction of the "Caroline" had been a justifiable act of self-defence. For it can not be disputed that the undersigned, as Secretary of State, was fully competent to convey the opinion of her majesty's Government, authentically, to the minister of the United States; and that Mr. Stevenson so thought is shown by the fact of his having deemed it right to communicate to his own Government, the substance and result of his abovementioned conversations with the undersigned.

Those conversations were undoubtedly informal, inasmuch as they did not arise in consequence of any communication which Mr. Stevenson was instructed by his Government to make to the undersigned; and they were conversations of that kind which frequently take place between the minister of a foreign Government and the Secretary of State, with a view to a preliminary undertaking, upon matters which are likely to be subjects of formal discussion between their respective Governments, and in order to prepare the way for such future discussions.

It is quite true, as observed by Mr. Stevenson, that the strong opinion expressed by Mr. Fox, in January, 1838, could not, at that time, have been expressed, in consequence of specific instructions from her majesty's Government; because there had not been time for him to have received any such instructions; but a minister plenipotentiary, has a general authority to speak and act, on behalf or his Government; and if his *words and acts are not disavowed by his Government* in due time, the Government, by its silence, adopts and becomes responsible for them. But the opinions expressed by

Mr. Fox, in January, 1838, upon the subject of the destruction of the "Caroline," were not disavowed by her majesty's Government, and have never been disavowed by them to this day.

Now the undersigned does not of course mean to say, that the opinions so expressed by Mr. Fox, and by himself, were final and conclusive decisions of her majesty's Government in the case, although that given in writing by Mr. Fox was as strong and unequivocal as words could well convey; and it is obvious that those opinions, having been expressed before the date of Mr. Stevenson's note, of May, 1838, could not at any rate have been decisions upon the demand made in that note. And as those opinions had been founded upon the information which her majesty's colonial authorities had then transmitted to Mr. Fox, and to her majesty's Government, it was possible that counter-statements, forwarded upon information collected by the United States Government, might satisfy her majesty's Government that their first view of the case, and their first opinion regarding it, however strong that opinion might have been, were erroneous. The undersigned therefore does not mean to say, and never has contended, that either his conversations with Mr. Stevenson, or Mr. Fox's note to Mr. Forsyth, ought to have precluded the demand which was afterward made by Mr. Stevenson's note of 1838.

But the undersigned contends that that demand was made with a previous knowledge, on the part of the United States Government, of the views and opinions of her majesty's Government, as to the transactions to which the demand related.

The undersigned has further to remark, that the words of Mr. Stevenson's note of May, 1838, distinctly prove that the Government of the United States did not entertain any doubt whatever whether the capture and destruction of the "Caroline" had been the unauthorized act of individuals, for which such individuals were to be made responsible in their private capacity, or whether it had been a public act, done by persons in the service of the British Government, and obeying superior authority, and for which, consequently, the British Government was to be responsible, because the specific complaint of Mr. Stevenson was, that the act was committed "by a portion of the British forces stationed at Chippewa;" and that "it was planned and executed with the knowledge and approbation of the lieutenant governor of Upper Canada," and that it was "the invasion of the territory and sovereignty of an independent nation, by the armed forces of a friendly power:" and the specific demand which Mr. Stevenson made was, "that the whole proceeding should be disavowed and disapproved, and that such redress as the nature of the case obviously required should be promptly made," by the British Government.

The undersigned therefore maintains, that the very contents of Mr. Stevenson's note of 1838 preclude the United States Government from attempting to make Mr. McLeod, or any other British subject, personally answerable for any share they may be supposed to have had in the destruction of the "Caroline;" and that Mr. Forsyth was mistaken in saying, as he did in his note to Mr. Fox, of the 26th of December, 1840, that up to that time the United States Government had had no authentic announcement that the destruction of the "Caroline" was a public act, of persons in her majesty's service, obeying the order of superior authorities; for Mr. Forsyth would have found that authentic announcement in the note of his own plenipotentiary, presented in pursuance of instructions from himself, so long ago as May, 1838. But while on the one hand the undersigned contends that the

United States Government knew, in the early part of 1838, that her majesty's Government thought the destruction of the "Caroline" a justifiable act; on the other hand, the undersigned begs to state that her majesty's Government, by continuing to give no reply to the demand made in Mr. Stevenson's note of May, 1838, was in fact practically declining to comply with that demand; and the only legitimate inference which the United States Government could draw from that silence was, that her majesty's Government adhered to the opinion which it had originally expressed.

It appears, then, from Mr. Stevenson's statement, that for nearly three years the United States Government acquiesced in the silence of her majesty's Government on this subject; for, though in October, 1839, Mr. Forsyth stated as a reason for not pressing her majesty's Government for an answer, that the President had been led by some conversation of Mr. Fox to expect the British answer without any further delay; yet that reason necessarily ceased with the further lapse of time, and could not be said to have held good, as long as till the beginning of 1840.

Mr. Stevenson moreover specifically states, in his note of the 31st ultimo, that, during the whole interval between the date of his note of May, 1838, and the time when the arrest of Mr. McLeod became known in England, in February, 1841, no communication ever took place between himself and the undersigned on the subject of the "Caroline." Now, as neither Mr. Stevenson nor the late President Van Buren have ever shown themselves deficient in watchful and active attention to all matters in which the just rights of the United States have been concerned, the undersigned conceives that he has not much erred in supposing, as stated by him in his former communication, that this long and intentional silence of the United States Government, and of its minister at this court, upon the subject of the "Caroline," arose from the considerations to which the undersigned adverted in that note.

In hazarding that supposition, it seems to the undersigned that he has assumed nothing but what is highly honorable to the Government of the United States, and that he has only imagined that Government to have been guided by the same feelings of conciliation [which] the undersigned begs to assure Mr. Stevenson has invariably animated the Government of her majesty in all its dealings and intercourse with Mr. Stevenson and with the Government which Mr. Stevenson has so ably and honorably represented at this court.

The undersigned has the honor to renew to Mr. Stevenson the assurance of his highest consideration.

PALMERSTON.

Mr. Stevenson to Lord Palmerston.

32 Upper Grosvenor street,
September 2, 1841.

My Lord: I hasten to do myself the honor of acknowledging the receipt of your lordship's note of this evening, in reply to mine of the 31st ultimo, relative to the capture and destruction of the "Caroline" steamer.

I shall take the earliest opportunity of forwarding a copy of your lordship's communication to the United States, but in what light the statements and circumstances which it details may be regarded by my Government it does

not belong to me to decide, or even to conjecture. Without desiring, therefore, to protract a discussion, in the conduct of which neither your lordship's sincerity nor my own will be doubted, it is yet proper that I should notice the misapprehension which still seems to exist in relation to the causes which influenced my Government or myself in not pressing upon your lordship and her majesty's Government an earlier decision of this painful subject.

After the explicit answer given in the last note which I had the honor to address to your lordship on this part of the case, and in which it was stated that neither my Government nor myself were influenced by the considerations supposed in your lordship's note of the 27th ultimo, I had not imagined that such an influence would again have been repeated, and more especially as I am still unable to perceive in the statements contained in your lordship's last note any just foundation for such an imputation. On the contrary, the motives which influenced my course, connected either with myself, my Government, or that of her majesty, were of an entirely different character from those which have been imagined. I must, therefore, take leave again to enter my friendly protest against the impression in which your lordship still indulges, and to restate, in language as precise and intelligible as I can use, that in refraining to press the case upon the consideration of her majesty's Government I was not influenced, nor have I any reason to believe that my Government was, either wholly or partially, by the considerations which your lordship has felt authorized again to repeat, however such a course might have been regarded by your lordship as honorable to the Government of the United States or its minister. Should it, however, turn out to be the case that the acquiescence in the silence of her majesty's Government by that of the United States was, as your lordship supposes, a sacrifice made to a love of peace, of one thing I can assure your lordship, that my Government will be prepared at the proper time, and whenever it may become necessary to do so, frankly to avow it. As there is no other part of your lordship's communication which requires any further notice from me, I avail myself of the opportunity, in closing finally the correspondence, to express my acknowledgments for the very gratifying terms in which your lordship has been pleased to speak in the manner in which I have represented my country at her majesty's court, and to tender to your lordship the renewed assurances of my distinguished consideration and respect.

A. STEVENSON.